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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

Anthony Dion Collins,

Plaintiff,

v.

State of Nevada, et al.,

Defendants.

Case No. 2:20-cv-01393-RFB-BNW

ORDER

On July 27, 2020, Anthony Collins filed a lawsuit under 42 U.S.C. § 1983, *Bivens*, and “the common law” for the violations of his Fifth, Sixth, and Eighth Amendment rights against Attorney General Aaron Ford, Governor Steven Sisolak, and the United States Department of Probation. He alleged that his sentence in Nevada federal case 2:95-cr-216-LDG-RJJ is based on erroneous information, and therefore incorrect. ECF Nos. 1-2. Specifically, Collins alleged he received a sentencing enhancement in his federal case (resulting in a life-sentence) based on a state conviction he disputes as invalid.

This court issued an order dismissing his case without prejudice. ECF No. 3. The rationale for that order was that Collins’ Section 1983 claim necessarily implied the invalidity of his state conviction and federal sentence, which in turn required him to plead that his state conviction or federal sentence had been invalidated or reversed to bring these claims. *See Heck v. Humphrey*, 512 U.S. 477, 483-87 (1994). The court provided him a deadline of November 13, 2020 to amend his complaint. *Id.*

On January 15, 2021, this court issued a report and recommendation to dismiss the case with prejudice, as Collins did not file an amended complaint by November 13, 2020. ECF No. 5.

1 Collins objected on January 27, 2021 and asserted that he never received a copy of this
2 court's screening order imposing the November 13, 2020 deadline. ECF No. 6. In light of
3 plaintiff's representations, this court vacated the report and recommendation at ECF No. 5. ECF
4 No. 7. This court also ordered Collins to file a proposed amended complaint for this court to
5 screen by March 9, 2021. *Id.* This court noted that failure to file a proposed amended complaint
6 by that deadline could result in a recommendation to the district judge that this case be dismissed.
7 *Id.*

8 On March 8, 2021, Collins filed the instant motion. ECF No. 8. Rather than attempt to
9 amend the complaint and provide the required information, he makes the same allegation. *Id.* To
10 the extent this motion seeks reconsideration, the request is denied. To the extent this motion is to
11 be construed as an amended complaint, the court will once again dismiss the complaint with leave
12 to amend on the same ground previously articulated in the prior order at ECF No. 3. Should
13 Collins choose to file an amended complaint that rectifies the enumerated deficiencies, he must
14 do so by June 18, 2021.

15 IT IS ORDERED that Plaintiff's motion for consideration (ECF No. 8) is DENIED.

16 IT IS FURTHER ORDERED that if Plaintiff chooses to file an amended complaint, he
17 must do so by June 18, 2021.

18 IT IS FURTHER ORDERED that the Clerk of Court must mail a copy of this court's
19 previous order (ECF No. 3) to Collins so that he can review the deficiencies in his current
20 complaint.

21 IT IS FURTHER ORDERED that if Plaintiff does not file an amended complaint by June
22 18, 2021, this court will enter a report and recommendation for the district judge to dismiss this
23 case.

24 DATED: May 7, 2021



25
26 BRENDA WEKSLER
27 UNITED STATES MAGISTRATE JUDGE
28